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October 4, 1994

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OCT 4 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL

Re: MM Docket No. 94-84
Amendment of Section 73.202(b)
FM Table of Allotments
(Robstown, Gregory, and Driscoll, Texas)

Dear Mr. Caton:

Transmitted herewith, on behalf of Cotton Broadcasting, is an original and four (4) copies of its Reply Comments in the above-referenced rulemaking.

Should questions arise concerning this filing, please communicate with this office.

Sincerely,



Lee J. Peltzman
Counsel for

COTTON BROADCASTING

Enclosure

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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

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In the Matter of:)

Amendment of Section 73.202(b))
FM Table of Allotments)
(Robstown, Gregory, and Driscoll, Texas))

MM DOCKET NO. 94-84
RM-8478

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

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REPLY COMMENTS

Cotton Broadcasting ("Cotton" or "petitioner"), licensee of Station KMIQ(FM), Robstown, Texas, by its attorney, hereby respectfully files its Reply Comments in the above-captioned rule making. By Notice of Proposed Rule Making, DA 94-782, released July 27, 1994 ("NPRM"), the Commission proposed to amend its Table of Allotments to substitute Channel 283C3 for channel 286A, reallocate Channel 283C3 from Robstown to Driscoll, Texas, and delete vacant Channel 283A at Gregory, Texas. The NPRM also proposed the concurrent modification of petitioner's license to specify Driscoll as its community of license.

Cotton, in its Comments filed on September 19, 1994, demonstrated that the proposed allotment of Channel 283C3 to Driscoll will result in service to a much larger area and population without any loss of existing service. Moreover, the adoption of the Driscoll proposal will result in the provision of a first local aural transmission service to that community, thereby further advancing the public interest.

In Comments filed by Reding Broadcasting Company, Inc. ("Reding"), also filed on September 19, 1994, Reding challenges the allotment of a station to Driscoll, Texas. Reding first

questions whether Driscoll is a community under Section 307(b) of the Communications Act. In fact, Driscoll is an incorporated community with its own government -- a mayor and city council -- as well as a police department and its own independent school district. The Commission has not previously questioned the fact that Driscoll is a community for purposes of an FCC rulemaking channel allotment. There is no reason for a different finding here.

Reding also finds fault with the fact that Driscoll, like the KMIQ present community of license, Robstown, is located within the Corpus Christi MSA. Reding, however, has failed to state why this fact is relevant to this FCC allotment. Petitioner is not seeking to relocate from a community outside the Corpus Christi radio market to one inside. Therefore, there is nothing improper about its proposal and the Commission may evaluate and grant it.

Reding also objects to the fact that the Commission must delete a channel from the community of Gregory, Texas, in order to substitute a channel at Driscoll. It takes issue with the fact that the channel being deleted is the only frequency presently allotted to Gregory. However, the issue is not whether Driscoll is as large as Gregory. The choice is not between a proposal for Driscoll and one for Gregory because there is no indication that anyone is interested in filing an application for Gregory. Commission records indicate that the only construction permit ever issued for Channel 283 at Gregory, Texas, was forfeited and canceled by the Commission on December 16, 1992. No application has been filed since that date and, while the Commission made clear in its NPRM that, were an expression of interest demonstrated by the filing of an acceptable application, petitioner's proposal to delete Channel 283A at Gregory might be dismissed, no application was filed with the FCC.

The cases previously cited by Cotton are challenged by Reding. However, those cases are

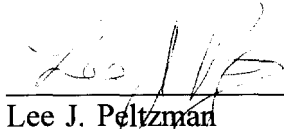
applicable to this case, since they hold that the Commission may delete an allotment from a community where there has not been any expression of interest. Since no expression of interest has been proclaimed for Gregory, it is silly to compare the theoretical need for a channel in that community with the expressed desire for a channel at Driscoll. To penalize Cotton when no expression of interest has been shown to exist for a Gregory station would be inequitable in the extreme.

Accordingly, for the reasons stated herein and in Cotton's earlier filed Comments, Cotton respectfully urges that the Commission adopt its proposal to amend its Table of Allotments to substitute Channel 283C3 for Channel 286A, reallocate Channel 283C3 from Robstown to Driscoll, and delete vacant Channel 283 from Gregory.

Respectfully submitted,

COTTON BROADCASTING

By:



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Its Attorney

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October 4, 1994

CERTIFICATE OF SERVICE

I, Linda E. Skiles, Office Administrator of the law firm of Shainis & Peltzman, do hereby certify that copies of the foregoing document were mailed this 4th day of October, 1994, to the offices of the following:

Mr. Douglas W. Webbink, Chief
Policy and Rules Division
Federal Communications Commission
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Linda E. Skiles